

REMARKS

Claims 13-17, 19, 20, and 21 have been amended for clarification purposes only and without the addition of new matter. Specifically, claims 13-17 and 19 have been amended to correctly identify antecedent basis. After entry of this Amendment, Claims 6-10 and 13-21 are pending in the patent application, of which claims 6-10 are withdrawn from examination. Reconsideration and allowance of the present patent application based on the foregoing amendments and following remarks are respectfully requested.

OBJECTIONS

The drawings were objected to because of informalities. The noted elements, i.e., upper surface of element 222 and the lead line for element 218, were corrected in Figure 5 and a replacement sheet for Figure 5 is provided herein. Thus, Applicant respectfully requests that the objection be withdrawn.

Claims 14-17 were objected because the Examiner alleged that the recitation "a cylindrical recess" is not sufficiently clear as to whether it is another recess or the same recess as recited in claim 13. Applicant respectfully disagrees. Specifically, claim 14 defines the cylindrical recess as having a same centre line and same radius as the supporting surfaces, and being designed for arrangement of the fixed crosscutting tool inside the tool housing. The recess of claim 13, however, is constructed and arranged between curved supporting surfaces to provide space for movement of a striking piston therein. To further prosecution only, Applicant has amended claim 14 to recite that the tool housing is "further provided" with "a cylindrical recess." Thus, Applicant respectfully submits that the objections to claims 14-17 be withdrawn.

REJECTIONS UNDER 35 U.S.C. §112

Claims 20 and 21 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement.

Claim 20 has been amended to recite, "wherein said fixed crosscutting tool has curved edge surfaces that are fitted into a cylindrical recess of the tool housing, said curved edge surfaces having a substantially similar radius as said cylindrical recess." That is, as noted in the Office Action, the disclosed embodiments provide, for example, that surfaces 53A-D of fixed crosscutting tool 50 are positioned and matched to the radius of the cavity or recess 219

formed in tool housing 20. *See, e.g.*, original Specification at paragraph [0026] and Figure 11.

Claim 21 has been amended to recite, “wherein said base element further comprises a part with a curved supporting surface, and wherein said movable crosscutting tool has curved edge surfaces in contact with said curved supporting surface of said part of said base element, said curved edge surfaces having a substantially similar radius as said curved supporting surface.” That is, as noted in the Office Action, the disclosed embodiments further provide that surfaces 43A-D of movable crosscutting tool 40 are positioned and matched to the radius of the surface 218 formed in part 222 of base element 21. *See, e.g.*, original Specification at paragraphs [0026] and [0027] and Figure 10.

Thus, Applicant respectfully requests that 35 U.S.C. §112, first paragraph rejection of claims 20-21 be withdrawn.

Claim 19 was rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter.

Applicant respectfully disagrees. Specifically, claim 19 depends from claim 18, which recites, “wherein, in the direction of impact, a material thickness of said solid base element measured from said supporting surface to an upper end surface of said base element is greater than a transverse material thickness of said base element” (emphasis added). That is, in the direction of impact, the material thickness is greater than the transverse material thickness. Similarly, claim 19 recites, “wherein an extent of said recess in a direction of impact is less than said material thickness in a direction of impact.” Thus, the material thickness of the solid base element is that which is in the direction of impact, i.e., not the transverse material thickness.

Applicant submits that the recited material thickness is clearly identified. For this reason, Applicant respectfully requests that the 35 U.S.C. §112, second paragraph rejection to claim 19 be withdrawn.

REJECTIONS UNDER 35 U.S.C. §103

Claims 13-21 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable by U.S. Patent No. 4,470,330 to Lindell (hereinafter “Lindell”) in view of U.S. Patent 3,391,591 to Funke (hereinafter “Funke”) and U.S. Patent 1,318,249 to Winters (hereinafter “Winters”). The rejection is respectfully traversed.

Independent claim 13 recites a tool housing comprising, *inter alia*, the tool housing has at least two supporting surfaces for positioning said movable crosscutting tool, said supporting surfaces being curved and having a same radius, wherein a recess is constructed and arranged between said curved supporting surfaces to provide space for movement of said striking piston, wherein the tool housing has at least two supporting surfaces for positioning said movable crosscutting tool, said supporting surfaces being curved and having a same radius; wherein a recess is constructed and arranged between said curved supporting surfaces to provide space for movement of said striking piston therein, and wherein said movable crosscutting tool has curved edge surfaces in contact with said curved supporting surfaces of said tool housing, said curved edge surfaces having a substantially similar radius as said curved supporting surfaces to assist in alignment of said tool device. Applicant respectfully submits that Lindell, Funke, Winters, and any combination thereof fails to disclose, teach, or suggest each and every element of claim 13, including, for example, the features noted above.

The remarks recited in the prior Amendments (e.g., Amendment dated April 23, 2008) regarding Lindell are herein incorporated by reference in their entirety.

As conceded in the Office Action, the cited portions of Lindell lack at least “said supporting surfaces being curved and having a same radius” and “wherein said movable crosscutting tool has curved edge surfaces in contact with said curved supporting surfaces of said tool housing, said curved edge surfaces having a substantially similar radius as said curved supporting surfaces to assist in alignment of said tool device” as recited in claim 13. The Examiner therefore relied on Funke as allegedly showing the use of complementary surfaces on a tool 23 in a similar manner as movable cutting tool having curved surfaces. Applicant respectfully disagrees.

The cited portions of Funke disclose a knife plate 23a having shapes for receiving rods to be cut by rod steel shears 23. That is, each shape of the knife plate 23a provides an entrance or guide hole in plate 2 designed to receive different shaped steel rods such that the inserted rods may be cut or sheared by the device. *See, e.g.*, Funke at column 3, lines 8-15 and Figure 1.

Applicant submits that there is no motivation to combine the cited features of Lindell and Funke. Specifically, the cited portions of Funke disclose a knife plate 23a with shapes to assist in guiding the insertion of rods into a rod shearing device. None of the cited portions of Funke disclose or remotely suggest a “tool housing [having] at least two supporting surfaces for positioning said movable crosscutting tool, said supporting surfaces being curved and having a same radius” and a “movable crosscutting tool [having] curved edge surfaces in

contact with said curved supporting surfaces of said tool housing, said curved edge surfaces having a substantially similar radius as said curved supporting surfaces to assist in alignment of said tool device” (emphasis added) as recited in claim 13. At most, the cited portions of Funke disclose a stationary plate 2 with guide surfaces for a rod steel shear 23 on its side. Funke does not, however, disclose a movable crosscutting tool with curved edge surfaces in contact with curved supporting surfaces of a tool housing as recited in claim 13.

Even assuming *arguendo* that the cited portions of Lindell and Funke could be combined, which Applicant does not concede, the combination would clearly fail to disclose or suggest at least and “a movable crosscutting tool with curved edge surfaces in contact with curved supporting surfaces of a tool housing,” and “a recess...constructed and arranged between said curved supporting surfaces to provide space for movement of said striking piston therein” as recited in claim 13.

As previously noted in the Amendment of April 23, 2008, the Examiner alleges that Figure 3 shows a “recess” between the surfaces of 32 through which 30 extends as being equivalent to the recess as claimed in the present invention. Applicant respectfully disagrees. As conceded by the Examiner in the Office Action dated January 25, 2008, the impact means 30 of die block 26 of Lindell extends into the “recess” between the surfaces of 32 and 30. Thus, even if the surfaces between 30 and 32 could be considered as supporting the impact means 30 of die block 26, which Applicant does not concede, the surfaces of Lindell would not “provide space for movement of said striking piston therein.” More specifically, it is noted that the ram 20 of Lindell is designed to impact block 30. *See, e.g.*, Lindell at column 2, lines 40-54 and column 4, lines 21-24, and Figures 2 and 3. Thus, the ram 20 can not move into the space or recess between the surfaces of 32 through which 30 extends.

Also, referring to Figure 3 of Lindell, the space in frame 16 for receiving part of impact means 30 does not provide a recess as recited in claim 13. The space in frame 16 does not provide at least two supporting surfaces for positioning the movable crosscutting tool (noted as the die block 26 of Lindell).

Thus, even if the noted portions of Lindell could be provided with curved surfaces as shown in Funke, which Applicant does not concede, the combination of Lindell and Funke would fail to disclose or anticipate at least a movable cutting tool and a recess as recited in claim 13.

For at least the above-identified reasons, Applicant submits that Lindell, Funke, and a combination thereof fail to disclose, teach, or suggest the features of claim 13.

Claims 14-17 and 20 are patentable over the cited portions of Lindell and Funke at least by virtue of their dependency from claim 13, and for the additional features recited therein. For example, claim 14 recites *inter alia* that "tool housing is further provided with a cylindrical recess having a same centre line and said same radius as said supporting surfaces, and wherein said cylindrical recess is designed for arrangement of said fixed crosscutting tool inside said tool housing," and claim 20 recites that "said fixed crosscutting tool has curved edge surfaces that are fitted into a cylindrical recess of the tool housing, said curved edge surfaces having a substantially similar radius as said cylindrical recess."

With respect to the recited features of claims 14 and 20, the Office Action alleges that, such cylindrical surfaces for fixed tools are old and well known in the art. *See* Office Action at page 7. Winters is recited as allegedly disclosing an example of "a cylindrical configuration for fixed tools." *See* Office Action at page 7. More specifically, it is alleged that providing such surfaces as shown in Winters to the device of Lindell would have been obvious. Applicant respectfully disagrees.

Applicant submits that there is no motivation to combine the cited portions of Lindell and Winters. Winters discloses a female die 15 that is received in a centrally arranged opening of a stationary die holder 12. However, Applicant submits that one of ordinary skill in the art would not look to provide die block 27 of Lindell (alleged in the Office Action to show a "fixed crosscutting tool" as recited in claim 13) with surfaces as shown in Winters. In particular, Applicant notes that the tool housing 25 of Lindell has an area which receives die blocks 26, 27 which is not of curved shape, and that die block 27 has a linear configuration. *See* Lindell at Figure 5. Applicant submits that in order to provide the block 27 of Lindell with such surfaces (or parts of tool housing 25) as shown in Winters, as one would need to manufacture and substantially manipulate the design and faces of each of the tool elements surrounding the die block 27. *See, e.g.,* Lindell at Figures 2 and 3 and column 3, lines 50-53. Thus, Applicant submits that it would not be obvious nor is there motivation to manipulate the die block 27 of Lindell to include a surface as claimed in the present invention.

Even assuming *arguendo* that a combination of Lindell, Funke, and Winters were deemed proper, which Applicant does not concede, Funke and Winters would fail to satisfy the deficiencies of Lindell. For example, such a combination would fail to disclose or teach at least "a movable crosscutting tool" and "a recess...constructed and arranged between said curved supporting surfaces to provide space for movement of said striking piston," as recited in claim 13. None of the cited portions of Lindell, Funke, Winters, or their combination disclose or suggest these features.

Independent claim 18 positively recites a tool housing comprising, *inter alia*, a solid base element with a horizontally extending circular recess for receiving said fixed crosscutting tool; said recess having a supporting surface with support material for withstanding impact acting in a transverse direction on said fixed crosscutting tool, the supporting surface being curved and having a radius; and wherein, in the direction of impact, a material thickness of said solid base element measured from said supporting surface to an upper end surface of said base element is greater than a transverse material thickness of said base element, and wherein said fixed crosscutting tool has curved edge surfaces that are fitted into said recess of said base element, said curved edge surfaces having a substantially similar radius as said recess to assist in alignment of said tool device. Applicant respectfully submits that Lindell, Funke, Winters, and their combination do not teach each and every element of claim 18, including the features noted above, for similar reasons as provided with respect to claim 13.

For example, as noted in the Office Action, the cited portions of Lindell fail to disclose, teach, or suggest a “fixed crosscutting tool has curved edge surfaces that are fitted into said recess of said base element, said curved edge surfaces having a substantially similar radius as said recess to assist in alignment of said tool device,” as recited in claim 18. Winters is provided as allegedly fulfilling such features. However, Applicant respectfully disagrees. For similar reasons as noted above, even if a combination of Lindell, Funke, and Winters were deemed proper, which Applicant does not concede, the combination would fail to disclose or teach at least a solid base element, a circular recess, a fixed crosscutting tool having curved edge surfaces, and the material thickness and transverse material thickness as recited in claim 18.

The cited portions of Funke and Winters fail to satisfy the deficiencies of Lindell. For example, the cited portions of Lindell, Funke, and Winters fail to disclose, teach, or suggest a “material thickness of said solid base element measured from said supporting surface to an upper end surface of said base element is greater than a transverse material thickness of said base element.” The Examiner notes areas in elements as illustrated in Figures 2 and 3 of Lindell. However, nowhere in Lindell are the thicknesses of a solid base element disclosed, nor is it disclosed or taught to provide the measurement of the solid base element as recited in claim 18.

Applicant respectfully submits that, even if the noted areas of the elements in Figures 2 and 3 were deemed as showing such thicknesses, which Applicant does not concede, the

cited portions of Lindell, Funke, and Winters would still fail to disclose or suggest each and every element as recited in claim 18.

The cited portions of Lindell, Funke, and Winters fail to disclose or anticipate at least the following features - a solid base element with a circular recess, a supporting surface being curved and having a radius, material thickness and transverse material thickness, and a fixed crosscutting tool having curved edge surfaces to assist in alignment of the tool device - as recited in claim 18.

For at least the above-identified reasons, Applicant submits that Lindell, Funke, and a combination thereof fail to disclose, teach, or suggest the features of claim 18.

Claims 19 and 21 are patentable over the cited portions of Lindell, Funke, and Winters at least by virtue of their dependency from claim 18, and for the additional features recited therein, and thus are also considered allowable.

For example, claim 21 recites a base element further comprises a part with a curved supporting surface, and that the movable crosscutting tool has curved edge surfaces in contact with the curved supporting surface of the part of the base element, the curved edge surfaces having a substantially similar radius as the curved supporting surface. Again, the cited portions of Funke merely recite shapes on a plate 23a for guiding rods into rod steel shears 23 on a stationary plate 2. The cited portions of Funke do not, however, describe or teach providing complimentary or corresponding curved surfaces on a movable tool in contact with curved supporting surface of a base element or tool housing.

Thus, based on at least the foregoing, reconsideration and withdrawal of the §103(a) rejection of claims 13-21 based on Lindell, Funke, Winters, and a combination thereof is requested.

All matters having been addressed and in view of the foregoing, Applicant respectfully requests reconsideration of this application, and the immediate allowance of all pending claims.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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Attachment: Replacement Sheet